



Smoke and mirrors: Corporate social responsibility and tax avoidance—A reply to Hasseldine and Morris

Prem Sikka

Centre for Global Accountability, Essex Business School, University of Essex, Colchester, Essex CO4 3SQ, UK

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ABSTRACT

This paper is a reply to a comment by John Hasseldine and Gregory Morris on the “Smoke and Mirrors: Corporate Social Responsibility and Tax Avoidance” paper published in *Accounting Forum* 2010: 34(3/4): 153–168. The original paper drew attention to the gap between corporate talk of social responsibility and actual practices, which promote tax avoidance/evasion. Instead of critiquing the Smoke and Mirrors paper, Hasseldine and Morris raise a number of random and often unrelated issues, including interpretation of law, tax statistics, regulation of tax agents, the role of accountants, policies of the state and the human rights of corporations, just to mention a few. This paper responds in kind and argues that many of their comments are ill informed.

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1. Introduction

I am grateful to Hasseldine and Morris (2013) for reading the “Smoke and Mirrors” (hereafter S&M) paper. The S&M paper (Sikka, 2010) drew attention to the gap between corporate talk and action. Many organizations claim to be ethical and socially responsible, while simultaneously engaging in tax avoidance and tax evasion. The S&M paper did not claim to resolve debates about the interpretation of law, human rights for corporations, the regulation of tax agents, policies of the state or the nature of state sovereignty. These issues merit closer examination but were beyond the scope of the S&M paper. In light of Hasseldine and Morris’s (hereafter H&M) expertise in taxation and social responsibility, one might have hoped for illumination and perhaps some answers to the issues raised in the S&M paper, but sadly little attempt is made to engage with the main thrust of the S&M paper. It is difficult to understand why, rather than offering a sustained critique of the paper, H&M indulge in unsubstantiated allegations and present a potpourri of random points that fail to illuminate the key issues highlighted in the S&M paper. Furthermore, most of the comments made by H&M are misinformed, a deficiency that can be attributed to their dim awareness of tax avoidance and of associated wealth transfers as political activities that transfer wealth and constrain the state’s capacity to provide public goods. There are fundamental clashes among the interests of citizens, of corporations and of the tax avoidance industry, but H&M present tax matters in an individualistic manner, rather than as the outcome of power relations. The superficiality of their comments is, in part, also a consequence of their keenness to defend tax avoidance and a monochromatic reading of corporate practices.

In their keenness to defend corporate interests, H&M have abolished the category of tax avoidance altogether and replaced it with anodyne individualistic concepts such as “tax-related behavior.” In H&M’s world, battalions of corporations, accountants, lawyers and wealthy elites are heaving their luggage about in legislative lobbies and secrecy jurisdictions because of a burning desire to comply with the law. They go to enormous lengths to manufacture losses, convert income into capital gains, create subsidiaries and affiliates, transfer pricing games and engage in circular transactions, simply to distill the

E-mail address: prems@essex.ac.uk

essence of the law and comply with the letter of the law. H&M have emptied the study of tax avoidance and corporate social responsibility of any concern with politics, power, social antagonisms, social justice, or intoxication with status and wealth, which are major features of contemporary social problems. H&M's formulations leave little room for the study of emerging wealth chains, the power of elites, the capture of the state and the politics of corporate social responsibility (CSR). Indeed, their preference is for silence and exile for anyone subscribing to alternative worldviews.

Nonetheless, I am grateful to H&M because their comments provide an opportunity to clarify some of the issues about tax avoidance and CSR and to document the gulf between our approaches. The structure of this response is somewhat random, as it attempts to follow the points raised by H&M. This reply is organized into nine further sections. The first section revisits the S&M paper to provide a brief summary and background, so that the reader can have a better idea of the issues raised. The second section refers to H&M's objections that the S&M paper made use of non-peer-reviewed literature. The H&M worldviews are unacceptable because they result in silence and the marginalization of key debates. The third section responds to H&M's allegations that the S&M paper misreported tax avoidance statistics. It shows that their allegations have no substance. It shows that tax avoidance possibly occurs on a much larger scale and that H&M seem to have considerable difficulty seeing the corporate hand in tax avoidance schemes. The fourth section addresses H&M's claims about the significance of legal interpretations in taxation matters. Sadly, their edicts rest on a very narrow and individualistic conception of law, and they attach little weight to the role of social antagonisms in shaping law. The fifth section notes H&M's observations about the state and state sovereignty and does not find their pluralist conceptions very persuasive. As part of the overall defense of the tax avoidance industry, section six notes that H&M downplay the role of accounting firms in tax avoidance by portraying them as intermediaries, rather than as a fraction of capital that must constantly find novel ways to increase their profits. Their failure to locate accounting firms in any recognizable social formation prevents them from seeing the partisan role of firms. The seventh section comments on H&M's observations about the regulation of tax avoidance and notes that their poor awareness of politics and of the capture of the state prevents a meaningful analysis. In line with their stream of random points, H&M invoke human rights for corporations. Therefore, the eighth section briefly presents counterarguments. Section nine concludes the paper by drawing together the major differences between their assumptions and the emerging critical literature.

2. Smoke and mirrors revisited

There has been a proliferation of corporate promises of ethical and socially responsible conduct. Indeed, ethics itself has become big business, and there is no shortage of hired advisers and report writers available to enable companies to assuage public concerns by publishing soothing CSR statements (Neimark, 1995). In the cauldron of concerns about negative publicity, consumer boycotts and damage to corporate profits, some corporations have bolstered their social legitimacy by embracing some socially responsible practices (Unerman & O'Dwyer, 2007). However, critics argue that CSR is often little more than an impression management exercise, and claims of social responsibility neither bring corporations under democratic control nor tame their tendency to make profits at almost any cost (Bakan, 2005; Fauset, 2006).

The above paragraph provides a brief background for the S&M paper, which highlighted the gulf between corporate claims of ethical, or socially responsible, conduct and corporations' actual practices. There are systemic factors contributing to this gulf. Corporations are under systemic pressure from the stock markets to produce higher profits, which in turn also enrich executives, as their remuneration is often linked to reported profits. Stock markets rarely ask any questions about the social quality of profits, and they are indifferent to whether higher profits are the outcomes of wage freezes, the dilution of employees' pension rights or tax avoidance schemes, which can undermine social cohesion and the possibilities of providing public goods. In an environment of conflict, corporations take action to get things done by creating a variety of internal processes, controls and reward systems. Thus, they might set tax avoidance targets, create profit centers geared toward shaving tax bills, or reward staff and external advisers for enabling the organization to avoid taxes. Organizations create hierarchical and surveillance systems to discipline employees, and those employees who resist them can be marginalized. In the contemporary world, all organizations are public in that they affect the lives of ordinary people, and their survival ultimately depends on public acceptance and trust. There is a constant need to (re)position organizations in relation to the perceptions of society at large and to incessant talk about subscribing to social norms, fairness and codes of ethics in attempts to win over skeptical audiences. The pursuit of fairness and good citizenship is often at odds with the internal drive for efficiency and higher private profits. Thus, internal practices may not be aligned with the promises made to external audiences, giving rise to a gap between corporate talk and action. Over a period, organizations might be able to manage the inconsistencies, but there is always the danger that contradictions will be exposed by unexpected events, scandals, whistleblowers, court cases and regulatory actions. Public exposure of the gaps between an organization's talk and its action, or its internal culture compared to its public statements, can lead to charges of "hypocrisy" (Brunsson, 1989, 1993, 1998, 2002, 2007), as was articulated in the S&M paper. The gap between talk and action, or the production of hypocrisy, is not unintentional. Rather, it is actively produced by organizational values and is inserted into daily routines and reward systems.

The S&M paper contributed to the above debate by examining the self-aggrandizing statements made by major business organizations under the guise of codes of ethics or CSR reports, and then it compared these statements to revelations about the organizations' tax positions. Despite claims of ethical and honest conduct, the revelations of tax avoidance/evasion have not been voluntary. They have been primarily facilitated by law enforcement agencies, courts and parliamentary inquiries.

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